

AMENDED IN ASSEMBLY MARCH 28, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1088**

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**Introduced by Assembly Member Eggman**

February 17, 2017

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An act to add Chapter 7.4 (commencing with Section 25640) to Division 15 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1088, as amended, Eggman. ~~Multunit~~ *Multifamily* residential housing: energy programs.

The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires the Energy Commission to carry out studies, technical assessments, research projects, and data collection directed to reducing wasteful, inefficient, unnecessary, or uneconomic uses of energy. The Energy Conservation Act of 2001 states the intent of the Legislature to establish incentives in the form of grants and loans to low-income residents, small businesses, and residential property owners for constructing and retrofitting buildings to be more energy efficient. The act requires the Energy Commission, in consultation with the Public Utilities ~~Commission~~, *Commission (PUC)*, to undertake certain actions for the purpose of full or partial funding of an eligible construction or retrofit project. The Clean Energy and Pollution Reduction Act of 2015 requires the Energy Commission to establish annual targets for statewide energy efficiency savings and demand reduction that will achieve a cumulative doubling of statewide energy efficiency savings in electricity and natural gas final end uses of retail customers by January 1, 2030, including

measures specific to disadvantaged communities, as specified. *Existing law requires the Energy Commission, by March 1, 2010, to establish a regulatory proceeding to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock.*

The California Renewables Portfolio Standard Program requires the ~~Public Utilities Commission~~ PUC to establish a renewables portfolio standard requiring all retail sellers, as defined, to procure a minimum quantity of electricity products from eligible renewable energy resources, as defined, so that the total kilowatthours of those products sold to their retail end-use customers achieves 25% of retail sales by December 31, 2016, 33% by December 31, 2020, 40% by December 31, 2024, 45% by December 31, 2027, and 50% by December 31, 2030, with the 2024 to 2030 requirements imposed by the Clean Energy and Pollution Reduction Act of 2015.

~~This bill would require the Energy Commission to set a statewide goal by 2030 to scale upgrades and reduce energy burdens for the multiunit residential market, statewide performance-based goals to reduce energy consumption, source energy demand, and emissions of greenhouse gases from the multifamily residential properties, taking into consideration the state's requirements for reducing emissions of greenhouse gases in disadvantaged communities and the climate equity, doubling of energy efficiency, and increased use of renewable energy resources requirements set forth in the Clean Energy and Pollution Reduction Act of 2015. The bill would require the Energy Commission to set common program eligibility definitions across, and adopt regulations to enable access to combined program funding for, housing, health, water, energy efficiency, zero- and near-zero emission vehicle infrastructure, renewable energy resources, and resiliency programs for multiunit residential properties. The bill would require the Energy Commission to report to the Legislature by January 1, 2019, on the extent to which renters and owners of low-income multiunit residential properties have sufficient technical and financial support to participate in existing programs and complete upgrades. Commission, by July 15, 2019, in consultation with relevant state agencies and the public, to adopt regulations to set the performance-based goals, as specified. The bill would require the Energy Commission, in coordination with its ongoing comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock, to consult with relevant state entities, including the PUC, the Department~~

*of Community Services and Development, the Department of Housing and Community Development, and the California Tax Credit Allocation Committee, an expert advisory committee, as specified, established by the Energy Commission, and the public, to develop and adopt statewide strategies and guidance for integrated distributed energy resource programs for multifamily properties and to identify model programs, financing mechanisms, rent stabilization agreements, tenant protection provisions, and policy recommendations to meet the statewide performance-based goals established pursuant to the bill's requirements for all multifamily residential property types. The bill would require the Energy Commission to report to the Legislature, by January 7, 2019, on the strategies and guidance developed pursuant to this requirement along with any recommendations for legislative action that may need to be taken to implement those strategies. The bill would require the Energy Commission to adopt regulations to streamline and coordinate enrollment in distributed energy resource, water, and fuel substitution programs for multifamily residential properties, as specified. The bill would require the Energy Commission, the PUC, the Department of Community Services and Development, the Department of Water Resources, and other relevant state and local governmental entities, by January 1, 2019, to mutually qualify low-income multifamily properties for state and local low-income distributed energy resource and water programs if the property meets certain requirements.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Over four million California households live in multifamily
- 4 apartment buildings or complexes with two or more units and
- 5 nearly half of the apartments in these multifamily apartment
- 6 buildings or complexes are occupied by households making 200
- 7 percent or less of federal poverty guidelines, or \$32,040 for a
- 8 family of two. Multiunit rental properties have unique attributes,
- 9 which can inhibit building upgrades to improve public health,
- 10 reduce utility bills, and reduce emissions of greenhouse gases.
- 11 (b) Section 38566 of the Health and Safety Code directs the
- 12 State Air Resources Board (state board) to ensure that statewide

1 emissions of greenhouse gases are reduced to at least 40 percent  
2 below the statewide greenhouse gas emissions limit by no later  
3 than December 31, 2030, and to achieve the state's stringent  
4 requirements for reducing emissions of greenhouse gases in a  
5 manner that benefits the state's most disadvantaged communities.

6 (c) The Clean Energy and Pollution Reduction Act of 2015  
7 (Chapter 547 of the Statutes of 2015) directs the State Energy  
8 Resources Conservation and Development Commission (Energy  
9 Commission) to establish annual targets for statewide energy  
10 efficiency savings and demand reduction that will achieve a  
11 cumulative doubling of statewide energy efficiency savings by  
12 January 1, 2030. It also directs the Energy Commission and state  
13 board to publish a study on barriers for low-income customers and  
14 disadvantaged communities to access energy efficiency and  
15 weatherization investments, zero-emission transportation options,  
16 renewables, and local small business contracting.

17 (d) The Energy Commission's completed study found several  
18 barriers to accessing the clean energy economy, including (1) in  
19 rental markets, owner and tenant incentives for upgrades are not  
20 aligned, (2) older buildings often need structural health and safety  
21 improvements to facilitate efficiency and renewable energy  
22 resource upgrades, and (3) there is a significant need to coordinate  
23 programs, share data, set common metrics, and set common goals.

24 (e) Streamlining eligibility and compliance requirements, setting  
25 common goals and metrics, and making it easier to combine  
26 funding across programs will increase the efficacy of state funding,  
27 increase participation in existing programs, and yield greater  
28 greenhouse gas reductions, energy bill savings, and public health  
29 benefits for California residents.

30 SEC. 2. Chapter 7.4 (commencing with Section 25640) is added  
31 to Division 15 of the Public Resources Code, to read:

32  
33 CHAPTER 7.4. ~~MULTI-UNIT~~ MULTIFAMILY RESIDENTIAL  
34 HOUSING PROGRAMS  
35

36 ~~25640. (a) The commission shall set a statewide goal by 2030~~  
37 ~~to scale upgrades and reduce energy burdens for the multiunit~~  
38 ~~residential market, taking into consideration the state's~~  
39 ~~requirements for reducing emissions of greenhouse gases in Section~~  
40 ~~38566 of the Health and Safety Code, and the climate equity,~~

1 doubling of energy efficiency, and increased use of renewable  
2 energy resources requirements set forth in the Clean Energy and  
3 Pollution Reduction Act of 2015 (Chapter 547 of the Statutes of  
4 2015).

5 (b) The commission shall set common program eligibility  
6 definitions across housing, health, water, energy efficiency, zero-  
7 and near-zero emission vehicle infrastructure, renewable energy  
8 resources, and resiliency programs for multiunit residential  
9 properties.

10 (c) The commission shall adopt regulations to enable access to  
11 combined program funding for health, water, energy efficiency,  
12 zero- and near-zero emission vehicle infrastructure, renewable  
13 energy resources, and resiliency, across programs and state  
14 agencies for multiunit residential properties.

15 (d) (1) By January 1, 2019, the commission, in consultation  
16 with relevant state agencies and the public, shall report to the  
17 Legislature on the extent to which renters and owners of  
18 low-income multiunit residential properties have sufficient  
19 technical and financial support to participate in existing programs  
20 and complete upgrades.

21 (2) The report to be submitted pursuant to this subdivision shall  
22 be submitted in compliance with Section 9795 of the Government  
23 Code.

24 (3) The requirement for submitting a report pursuant to this  
25 subdivision is inoperative on January 1, 2023, pursuant to Section  
26 10231.5 of the Government Code.

27 25640. For purposes of this chapter, the following terms have  
28 the following meanings:

29 (a) "Community choice aggregator" has the same meaning as  
30 defined in Section 331.1 of the Public Utilities Code.

31 (b) "Distributed energy resource" means energy measures or  
32 technologies, including energy efficiency, demand response,  
33 demand management, distributed generation using renewable  
34 energy resources, energy storage, and plug-in electric vehicle  
35 charging infrastructure, that can be used, individually or in  
36 combination to provide value to the electrical grid and electric  
37 utility customers.

38 (c) "Electrical corporation" has the same meaning as defined  
39 in Section 218 of the Public Utilities Code.

1 (d) “Gas corporation” has the same meaning as defined in  
2 Section 222 of the Public Utilities Code.

3 (e) “Local publicly owned electric utility” has the same meaning  
4 as defined in Section 224.3 of the Public Utilities Code.

5 (f) “Low-income multifamily property” means a multifamily  
6 residential property where greater than 60 percent of the units are  
7 occupied by households with incomes at or below 80 percent of  
8 area median income or any multifamily residential property where  
9 greater than 60 percent of units are occupied by customers with  
10 annual household incomes at or below 200 percent of federal  
11 poverty guidelines.

12 (g) “Multifamily residential property” means real property that  
13 has two or more permanent rental units intended for human  
14 habitation that are located in one or more permanent multitenant  
15 buildings or mixed-use residential-commercial buildings or  
16 portions thereof that are intended for human habitation.  
17 Multifamily residential property includes residential hotels, but  
18 does not include hotels and motels that are not residential hotels.

19 (h) “Source energy usage” or “source energy demand” means  
20 the total amount of raw fuel that is required to operate a building  
21 and incorporates all transmission, delivery, and production losses.

22 (i) “Unit of local government” has the same meaning as defined  
23 in Section 25411.

24 25641. (a) The commission shall set statewide  
25 performance-based goals to reduce energy consumption, source  
26 energy demand, and emissions of greenhouse gases from  
27 multifamily residential properties, taking into consideration the  
28 state’s requirements for reducing emissions of greenhouse gases  
29 in Section 38566 of the Health and Safety Code, and the climate  
30 equity, doubling of energy efficiency, and increased use of  
31 renewable energy resources requirements set forth in the Clean  
32 Energy and Pollution Reduction Act of 2015 (Chapter 547 of the  
33 Statutes of 2015).

34 (b) The commission, in consultation with relevant state agencies  
35 and the public, shall adopt regulations by July 15, 2019, to set the  
36 performance-based goals required by subdivision (a) and that do  
37 all of the following:

38 (1) Establish a goal to reduce the total source energy usage of  
39 multifamily properties by at least 30 percent by 2030, as compared  
40 to 2017 energy usage, using a source energy methodology, to be

1 *determined by the commission, that takes into account the*  
2 *increasing amount of electricity on California's grid generated*  
3 *by eligible renewable energy resources, with an interim 2025*  
4 *source energy usage goal for multifamily residential properties*  
5 *using the same methodology.*

6 *(2) Establish a goal to reduce emissions of greenhouse gases*  
7 *attributable to multifamily residential properties by at least 40*  
8 *percent by 2030, as compared to 2017 emissions of greenhouse*  
9 *gases, with an interim 2025 goal for reducing emissions of*  
10 *greenhouse gases for multifamily residential properties.*

11 *(3) If after completing the stakeholder process described in*  
12 *subdivision (d) the commission finds the goals established pursuant*  
13 *to paragraphs (1) and (2) are not technically or economically*  
14 *feasible, the commission may elect to adopt less demanding goals.*

15 *(4) Not less than one-half of the performance based goals for*  
16 *reducing energy consumption and reducing emissions of*  
17 *greenhouse gases established pursuant to paragraphs (1) and (2)*  
18 *shall be applied to low-income multifamily properties.*

19 *(5) If the commission determines it is appropriate, establish*  
20 *additional statewide goals for the deployment of demand*  
21 *management measures, the reduction of energy peak loads, the*  
22 *reduction of water usage, and the expansion of plug-in electric*  
23 *vehicle charging infrastructure at multifamily residential property*  
24 *locations.*

25 *(c) The statewide performance-based goals established pursuant*  
26 *to subdivision (b) may be achieved through energy consumption*  
27 *and demand reductions resulting from a variety of programs that*  
28 *include, but are not limited to, all of the following:*

29 *(1) A comprehensive program to achieve greater energy*  
30 *efficiency savings in California's existing residential and*  
31 *nonresidential building stock pursuant to Section 25943.*

32 *(2) Programs funded by the Greenhouse Gas Reduction Fund*  
33 *established pursuant to Section 16428.8 of the Government Code,*  
34 *including, but not limited to, the Energy Efficiency Low-Income*  
35 *Weatherization Program established pursuant to Section 12087.5*  
36 *of the Government Code and the Affordable Housing and*  
37 *Sustainable Communities Program established pursuant to Part*  
38 *1 (commencing with Section 75200) of Division 44.*

39 *(3) Programs of electrical corporations, community choice*  
40 *aggregators, gas corporations, or third-party administrators, that*

1 *provide financial incentives, rebates, technical assistance, and*  
2 *support to their customers to increase energy efficiency and use*  
3 *of distributed energy resources, authorized by the Public Utilities*  
4 *Commission.*

5 *(4) Programs of a unit of local government, including a local*  
6 *publicly owned electric utility, that provide financial incentives,*  
7 *rebates, technical assistance, and support to their residents to*  
8 *increase energy efficiency and distributed energy resources.*

9 *(5) Programs of electrical corporations, gas corporations,*  
10 *community choice aggregators, or local publicly owned electric*  
11 *utilities or other unit of local government that achieve energy*  
12 *efficiency savings through operational, behavioral, and*  
13 *retrocommissioning activities.*

14 *(6) Projects financed through the Property Assessed Clean*  
15 *Energy Program or Clean Energy Upgrade Program pursuant to*  
16 *Chapter 4 (commencing with Section 26050) of Division 16.*

17 *(7) Projects financed through tax credit allocations by the*  
18 *California Tax Credit Allocation Committee as part of the*  
19 *low-income housing tax credit program pursuant to Chapter 3.6*  
20 *(commencing with Section 50199.4) of Part 1 of Division 31 of the*  
21 *Health and Safety Code.*

22 *(8) Projects financed through a federal Low-Income Home*  
23 *Energy Assistance Program Block Grant funded by the United*  
24 *States Department of Health and Human Services or financed*  
25 *through the United States Department of Energy's Weatherization*  
26 *Assistance Program, overseen by the Department of Community*  
27 *Services and Development.*

28 *(d) (1) The commission, in coordination with its ongoing*  
29 *comprehensive program to achieve greater energy efficiency*  
30 *savings in California's existing residential and nonresidential*  
31 *building stock pursuant to Section 25943, shall consult with*  
32 *relevant state entities including, but not limited to, the Public*  
33 *Utilities Commission, the Department of Community Services and*  
34 *Development, the Department of Housing and Community*  
35 *Development, and the California Tax Credit Allocation Committee,*  
36 *the expert advisory committee established pursuant to subdivision*  
37 *(e), and the public, to develop and adopt statewide strategies and*  
38 *guidance for integrated distributed energy resource programs for*  
39 *multifamily properties and to identify model programs, financing*  
40 *mechanisms, rent stabilization agreements, tenant protection*

1 *provisions, and policy recommendations to meet the statewide*  
2 *performance-based goals established pursuant to subdivision (b)*  
3 *for all multifamily residential property types. By January 7, 2019,*  
4 *the commission shall report to the Legislature on the strategies*  
5 *and guidance developed pursuant to this subdivision along with*  
6 *any recommendations for legislative action that may need to be*  
7 *taken to implement those strategies.*

8 *(2) The report to be submitted pursuant to this subdivision shall*  
9 *be submitted in compliance with Section 9795 of the Government*  
10 *Code.*

11 *(3) The requirement for submitting a report pursuant to this*  
12 *subdivision is inoperative on January 7, 2023, pursuant to Section*  
13 *10231.5 of the Government Code*

14 *(e) The commission shall establish an expert advisory committee*  
15 *of at least nine representatives from the following backgrounds:*

16 *(1) Clean energy finance.*

17 *(2) Information technology.*

18 *(3) Engineers, architects, or other professionals with knowledge*  
19 *and expertise in building construction or design.*

20 *(4) Nonprofit and not-for-profit multifamily residential property*  
21 *owners.*

22 *(5) Environmental justice, social justice, housing, and*  
23 *environmental policy experts.*

24 *(6) Other policy and marketplace actors with expertise needed*  
25 *to design and implement effective financial, housing, and related*  
26 *energy service programs for multifamily customers.*

27 *(f) The commission shall adopt regulations to streamline and*  
28 *coordinate enrollment in distributed energy resource, water, and*  
29 *fuel substitution programs for multifamily residential properties,*  
30 *as follows:*

31 *(1) The commission, in coordination with the Public Utilities*  
32 *Commission, the Department of Community Services and*  
33 *Development, state and local water agencies, and other relevant*  
34 *stakeholders, shall oversee the creation of a statewide online*  
35 *program intake portal for multifamily residential property*  
36 *customers, that incorporates an integrated distributed energy*  
37 *resource and water program application. The online program*  
38 *intake portal shall be made available in at least the three most*  
39 *commonly used languages in California.*

1 (2) *The commission, in coordination with the Public Utilities*  
2 *Commission, the Department of Community Services and*  
3 *Development, state and local water agencies, and other relevant*  
4 *stakeholders, shall issue guidelines for program administrators*  
5 *to facilitate shared funding, common program metrics, and shared*  
6 *program data across existing distributed energy resource and*  
7 *water programs for multifamily residential programs.*

8 (g) *By January 1, 2019, the commission, the Public Utilities*  
9 *Commission, the Department of Community Services and*  
10 *Development, the Department of Water Resources, and other*  
11 *relevant state and local governmental entities shall mutually qualify*  
12 *low-income multifamily properties for state and local low-income*  
13 *distributed energy resource and water programs if the property*  
14 *is any of the following:*

15 (1) *If the low-income multifamily property is subject to a*  
16 *regulatory agreement or affordability covenant.*

17 (2) *If the low-income multifamily property participates in a*  
18 *federal multifamily housing program regulated by the United States*  
19 *Department of Housing and Urban Development, the United States*  
20 *Department of Agriculture, or the Internal Revenue Service.*

21 (3) *The property owner provides documentation that a minimum*  
22 *of 60 percent of the residents residing at the property meet either*  
23 *or both of the following requirements:*

24 (A) *Have household incomes that do not exceed the greater of:*  
25 *200 percent of the federal poverty level based on household size*  
26 *or 80 percent of the area median income for the county in which*  
27 *the property is located.*

28 (B) *Have rents established at less than 30 percent of the income*  
29 *level, established by computing 80 percent of the area median*  
30 *income level or 80 percent of the state median income level,*  
31 *whichever is higher, for the relevant household size. For this*  
32 *purpose, “relevant household size” means the number of bedrooms*  
33 *in the unit, plus one.*

34 (h) *Nothing in this section affects the income eligibility*  
35 *requirements of individual programs.*